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3
4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 KENNETH RAWSON,

8 Plaintiff,

9 v.

10 RECOVERY INNOVATIONS, INC., et
11 al.,

Defendants.

CASE NO. C17-5342 BHS

ORDER GRANTING PLAINTIFF'S
MOTION TO RETAX COSTS,
VACATING CLERK'S ORDER,
AND DENYING DEFENDANTS'
MOTION FOR COSTS

12 This matter comes before the Court on Plaintiff Kenneth Rawson's ("Rawson")
13 motion to retax costs. Dkt. 187. The Court has considered the pleadings filed in support
14 of and in opposition to the motion and the remainder of the file and hereby grants the
15 motion for the reasons stated herein.

16 **I. PROCEDURAL HISTORY**

17 On May 8, 2017, Rawson filed a complaint against Defendants Jennifer
18 Clingenpeel, Sami French, Vasant Halarnakar, and Recovery Innovations, Inc.
19 (collectively "Defendants") asserting numerous claims stemming from his involuntary
20 commitment and treatment by Defendants. Dkt. 1. On June 8, 2017, Rawson filed an
21 amended complaint against Defendants asserting that Defendants acted under color of
22 law for purposes of 42 U.S.C. § 1983 and nine substantive claims as follows: (1)

1 violation of his Fourth Amendment rights, (2) violation of his substantive due process
2 rights under the Fourteenth Amendment, (3) violation of his procedural due process
3 rights under the Fourteenth Amendment, (4) violations of the ADA, 42 U.S.C. § 12132,
4 (5) outrage, (6) false imprisonment, (7) medical malpractice, (8) violations of the
5 Washington Law Against Discrimination (“WLAD”), RCW Chapter 49.60, and (9)
6 violations of the Washington Consumer Protection Act (“CPA”), RCW Chapter 19.86.
7 Dkt. 5.

8 On November 27, 2018, and May 9, 2019, the Court granted Defendants’ motions
9 for summary judgment on Rawson’s § 1983 claims. Dkts. 128, 160. On May 31, 2019,
10 the Court granted Rawson’s motion to voluntarily dismiss his remaining state law claims.
11 Dkt. 175. On June 18, 2019, Rawson filed a complaint in state court asserting those state
12 law claims. Dkt. 182-1.

13 On August 19, 2019, the Clerk granted Defendants’ motion for costs. Dkt. 186.
14 On August 26, 2019, Rawson filed the instant motion to retax costs. Dkt. 187. On
15 September 9, 2019, Defendants responded. Dkt. 188. On September 11, 2019, Rawson
16 replied. Dkt. 189.

17 II. DISCUSSION

18 A district court has the discretion to refuse to award costs to a prevailing party
19 under Rule 54(d). *Draper v. Rosario*, 836 F.3d 1072, 1087 (9th Cir. 2016).

20 [a]ppropriate reasons for denying costs include: (1) the substantial public
21 importance of the case, (2) the closeness and difficulty of the issues in the
22 case, (3) the chilling effect on future similar actions, (4) the plaintiff’s
limited financial resources, and (5) the economic disparity between the

1 parties. This is not “an exhaustive list of ‘good reasons’ for declining to
2 award costs,” but rather a starting point for analysis.

3 *Id.* (citing *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236, 1247–48 (9th Cir.
4 2014)). Another “special reason” for a federal court to deny costs is if the plaintiff
5 continues to prosecute his state law claims in state court using the some of the evidence
6 created in the federal action. *Seeds v. Lucero*, C-1341-BBL, 2002 WL 35649996, at *2
7 (D.N.M. May 21, 2002).

8 In this case, the weight of factors warrants a denial of costs. The issues in this
9 case have substantial public importance because it resolved federal liability under
10 Washington’s involuntary commitment system. The issues were close. Rawson has
11 established limited financial resources, and the economic disparity between the parties is
12 vast. More importantly, the Court agrees with *Seeds* in concluding that the state court
13 will be in a better position to assess costs once all of Rawson’s claims have been finally
14 decided. Thus, the Court grants Rawson’s motion and will not award costs at this time.

15 **III. ORDER**

16 Therefore, it is hereby **ORDERED** that Rawson’s motion to retax costs, Dkt. 187,
17 is **GRANTED**, the Clerk’s order awarding costs is **VACATED**, Dkt. 186, and
18 Defendants’ motion for costs, Dkt. 179, is **DENIED**.

19 Dated this 17th day of December, 2019.

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21 BENJAMIN H. SETTLE
22 United States District Judge